



Charles E. Hoffman
President and Chief Executive Officer

Hamilton Square 600 14th Street NW Suite 750 Washington DC 20005
T > 202-220-0400 F > 202-220-0401

February 12, 2003

Commissioner Michael Copps
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability; WCB Docket No. 01-338

Dear Commissioner Copps:

Now that the Commission has delayed until February 20th its resolution of the pending *Triennial Review* proceeding, I hope that this additional time will enable you and the rest of the FCC Commissioners to reach agreement on unbundled network element access issues, which are of vital importance to the entire competitive telecommunications industry. Even though Covad does not use the so-called UNE-Platform, we recognize that millions of Americans are benefiting from local voice competition, and we strongly urge you to preserve all forms of competitive entry as mandated by Congress. I read with trepidation, however, a recent report in *USA Today* describing a proposal to restrict, and possibly eliminate, the line sharing UNE in exchange for preserving access to the UNE-P used by some voice competitors.¹ I profoundly hope that this projection will turn out to be wrong – and that the FCC does not trade off different forms of competition against each other.

I appreciated very much our discussion last month of the important principles of promoting competition and consumer choice for all telecommunications services, voice and broadband alike. As we discussed in that meeting, Covad requires non-discriminatory access to the line sharing UNE to make its competitive broadband services available to residential consumers and small businesses. Although linesplitting and stand-alone loop unbundling are vitally important, let me be clear: linesharing is the *only* technically, economically, and practically feasible means of providing residential broadband service to consumers. We believe strongly that the record before the Commission in this proceeding supports no other conclusion. We also discussed the vital role that Covad's broadband services have played in promoting DSL deployment nationwide, both in lowering prices for residential broadband services and in spurring increased DSL deployment by incumbents and competitors alike – at last count, by over

¹ *USA Today*, Feb. 10, 2003, "FCC Rule Change Could Boost DSL Prices".



four thousand percent.² Given your principled support for competition, I earnestly hope that you will continue to stand up as a champion of competition and consumer choice for all telecommunications services – both voice and broadband.

I'd like to take this opportunity to reiterate the important things Covad is doing to deploy competitive broadband services to businesses and residential customers across the nation. Covad has invested hundreds of millions of dollars in constructing a nationwide facilities-based broadband network that covers over 40 million homes and businesses and reaches more than 45 percent of the homes and businesses across the nation – greater broadband coverage than any single cable company or Bell company. Covad's services are available to consumers in 35 of the 50 states. We have invested in a nationwide network of switches, routers, DSLAMs, and other equipment, and we lease only the last mile transmission facilities of the Bell companies – the core bottleneck facilities that no carrier could ever duplicate.

While 2002 was a year of significant turmoil in the telecommunications industry, Covad made it a year of revitalization. In spite of an economic recession and depressed telecommunications spending, we were able to add tens of thousands of new customers to our network, expand our footprint, and promote significant new growth opportunities for competitive broadband services. We expanded our relationship with AT&T to include residential line shared DSL services over our nationwide network. We signed a five-year agreement with AOL Time Warner to offer millions of AOL dial-up customers the option of a high-speed, always-on broadband connection using line shared DSL services. We also began a partnership with Sprint to provide business-class DSL services, including SOHO-class services using line shared DSL. We expanded our existing relationship with Earthlink to include additional line shared DSL services. And we led the industry to lower prices and increase residential broadband deployment by introducing our Telesurfer Link product, which offers residential line shared DSL at its lowest price point yet - \$39.95 per month. As a result of our efforts to compete, our success in the broadband marketplace continues. At the end of 2002, Covad facilities were collocated in nearly 2000 central offices nationwide, serving nearly 400,000 customers using standalone UNE loops and line sharing UNEs. Our broadband success story has led to calls for preservation of linesharing from our partners – such as AT&T, WorldCom, AOL and Earthlink – as well as numerous state commissions and NARUC, all of whom recognize the pro-consumer benefits of linesharing. With decisive action by the Commission to preserve line sharing, the future of residential broadband competition will be just as bright.

I urge you to recognize and protect the significant pro-consumer benefits of the broadband competition made possible by line sharing. The *USA Today* article reporting that the FCC might trade away line sharing also reported that competition from line shared DSL services forced the Bells and the cable companies "to drop broadband prices to \$40 from \$50 a month."

² Covad launched DSL commercially before any of the Bell companies, even though the Bells had the technology available to them for over a decade. When the FCC created the line sharing rules in 1999, its own data showed 115,000 ADSL lines in service. Today, as a direct result of the line sharing rules, the FCC reports 5.1 million ADSL lines in service – an increase of over four thousand percent in less than three years.



We've done our own economic analysis, which is on the record before you in this proceeding, showing that consumers have already enjoyed over \$1 billion in savings as a direct result of competition from line sharing, and will enjoy a further \$1.6 billion in savings over the next four years if line sharing is preserved.³ It is undisputed that, in the absence of linesharing, consumers and small businesses would have access to, at best, a broadband duopoly, and at worst, a broadband monopoly. There is no question that line sharing is part and parcel of the pro-competitive regime created in the 1996 Telecommunications Act. There is no question that line sharing, along with all the UNEs competitors rely on to deliver choice and savings to consumers, should be preserved. And there is no question that the entire record before the Commission supports the preservation of the line sharing UNE.

Thank you for your efforts to help preserve the broadband choice made possible by line sharing.

Sincerely,

/s/ Charlie Hoffman

Charles E. Hoffman
President and Chief Executive Officer
Covad Communications Company

³ See Letter from Jason Oxman, Covad Communications, to Marlene Dortch, Federal Communications Commission, in WC 01-338 (dated November 20, 2002), Attachment "Declaration of Steven E. Siwek and Su Sun."